

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
January 4, 2005**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Bigelow, Spain, Kenny, Conze, Forman

STAFF ATTENDING: Ginsberg, Keating

The meeting was called to order at 8:00 pm by Mr. Damanti.

Continuation of Public Hearing regarding Coastal Site Plan Review #186-B, Flood Damage Prevention Application #198-B, Denis & Jennifer Manelski, 11 Pratt Island. Proposing to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas. The subject property is located on the south side of Pratt Island approximately 1,150 feet south of the intersection of Nearwater Lane and Baywater Drive, and is shown on Assessor's Map #55, as Lots #121 & #122 in the R-1 Zone. *WITHDRAWN.*

Mr. Damanti noted that this item had been withdrawn.

GENERAL MEETING

Coastal Site Plan Review #200, Flood Damage Prevention Application #217, 2572 Post Road Associates, LLC, 2572 Boston Post Road. Proposing to renovate and construct an addition to the existing residence; remove trees; and construct a patio and perform related site development activities within regulated areas. The subject property is located on the south side of Boston Post Road, approximately 175 feet east of its intersection with Catalpa Terrace, and is shown on Assessor's Map #54 as Lot #4 in the R-1/3 Zone.

There was a brief discussion regarding the proposed tree cutting and tearing down of the existing house on the above property. Neighbors have all signed off on an approval and there are no further issues here, according to Mr. Ginsberg. Mr. Keating explained that the patio and back edge of the house are on the fringe of a flood zone area. A drainage impact statement was prepared by Rocco V. D'Andrea.

Mr. Spain asked if there were any other agencies that have to approve this application. Mr. Ginsberg replied that there were not. Mr. Spain stated his belief that this should be reviewed by the Planning & Zoning Commission administratively.

A move to waive the Public Hearing was made by Mr. Damanti and seconded by Mr. Kenny, and unanimously approved.

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Mr. Kenny asked whether this was a “teardown” and not a renovation and whether the Environmental Protection Commission (EPC) gets involved with this application, which borders Holly Pond. Mr. Ginsberg responded that although Mr. Stuart has stated that he will try to save the existing foundation, it is possible that he will not be able to, and that for purposes of its review, the Commission should consider this a “teardown”. He added that since there are only tidal wetlands involved, and not inland wetlands, that EPC would not be involved.

Mr. Spain made a motion to approve the application as submitted. That motion was seconded by Mr. Kenny, and unanimously approved by a vote of 6-0.

Discussion, deliberation and possible decisions on the following:

Land Filling & Regrading Application #135, Joseph and Deborah Minichini, 10 Brown Street. Proposing to relocate and reconfigure the existing driveway and perform related site development activities. The subject property is located on the east side of Brown Street, approximately 400 feet north of its intersection with West Avenue, and is shown on Assessor’s Map #23 as Lot #2 in the R-1/3 Zone.

A motion was made by Mr. Damanti to waive the reading of the resolution aloud, since Commission members received it on Friday, and have had time to review it. That motion was seconded by Mr. Kenny and unanimously approved. Mr. Bigelow made a motion to approve the resolution as written. That motion was seconded by Ms. Forman, and approved by a vote of 6-0. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 4, 2005**

Application Number: Land Filling and Regrading Application #135

Street Address: 10 Brown Street
Assessor's Map #23 Lot #2

Name and Address of Property Owner: Joseph & Deborah Minichini
And Applicant: 14 Tulip Tree Lane
Darien, CT 06820

Name and Address of Applicant's Representative: Mark Lebow
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to relocate and reconfigure the existing driveway and perform related site development activities.

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Property Location: The subject property is located on the east side of Brown Street, approximately 400 feet north of its intersection with West Avenue.

Zone: R-1/3 Zone

Date of Public Hearing: November 23, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 11 & 18, 2004

Newspaper: Darien News-Review

Date of Action: January 4, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
January 13, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to relocate and reconfigure the existing driveway entrance and perform related site development activities. There are approximately sixty cubic yards of fill necessary for this project, and the installation of a new retaining wall, both within fifteen feet of the south property line. As noted on the engineered plan submitted by the applicant, the increase in runoff from this project will be insignificant. The goal is to relocate the driveway south, onto the public portion of Brown Street. The existing driveway is on the privately-owned portion of Brown Street. The new proposed driveway will be paved.
2. As shown on the submitted plans, a number of trees will need to be removed to accommodate this new driveway cut, including but not limited to, a 16" chestnut; an 18" oak; a 26" oak; and two other 18" oaks.
3. The Environmental Protection Commission approved this project on February 5, 2003 in EPC 11-2003. The Zoning Board of Appeals approved this project on November 17, 2004

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in Calendar 85-2004. Both of these decisions are hereby incorporated by reference. The requests in these applications include the replacement of the existing residence and the construction of a new residence, as well as the driveway modification requested herein. It is specifically noted that the replacement of the existing house in and of itself, does not require a permit from the Planning and Zoning Commission—only the filling and regrading necessary for the driveway.

4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #135 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the plans submitted to the Commission entitled:
 - Grading Plan Plan (sic), Joseph Minichini III Deborah Minichini, 10 Brown Street, scale 1"=10', by John R. Martucci, PE, dated October 13, 2004.
- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- C. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, a street opening permit (curb cut approval) from the Darien Public Works Department.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (January 3, 2006). This may be extended as per Sections 858 and 1009.

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All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti read the next agenda item:

Land Filling & Regrading Application #134, Peter Greenberg d/b/a Able Construction, 10 Victory Drive. Proposing to remove existing driveway and install a new driveway and perform related site development activities. The subject property is located on the south side of Victory Drive, approximately 100 feet southwest of its intersection with Glenwood Drive, and is shown on Assessor's Map #47 as Lot #73, R-1/3 Zone.

A motion was made by Mr. Bigelow to waive the reading of the resolution aloud. That motion was seconded by Mr. Kenny and unanimously approved.

In regard to previous discussions on the above property, it was agreed that a private dispute between neighbors is not within the jurisdiction of this Commission. This is an issue which neighbors should resolve this among themselves.

A motion was made to approve the project with conditions. That was made by Mr. Conze, and seconded by Mr. Spain. The motion was approved by a vote of 6-0, and the adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 4, 2005**

Application Number: Land Filling and Regrading Application #134

Street Address: 10 Victory Drive
Assessor's Map #47 Lot #73

Name and Address of Property Owner: Peter Greenberg
And Applicant: Able Construction, Inc.
30 Oakwood Avenue
Norwalk, CT 06850

Activity Being Applied For: Proposing to remove existing driveway and install a new driveway and perform related site development activities.

Property Location: The subject property is located on the south side of Victory Drive, approximately 100 feet southwest of its intersection with Glenwood Drive.

Zone: R-1/3 Zone

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Date of Public Hearing: November 23, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 11 & 18, 2004

Newspaper: Darien News-Review

Date of Action: January 4, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
January 13, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to fill and regrade associated with the removal of the existing driveway and installation of a new driveway and performance of related site development activities. Based upon the submitted plan, a retaining wall ranging in height from one foot to four and a half feet will be constructed adjacent to the proposed driveway.
2. As part of the Site Development Plan submitted as part of the application, drainage improvements have been proposed. The drainage improvements have been specifically sized to accommodate the new residence and associated changes.
3. At the public hearing, questions arose regarding whether Victory Drive is a private road, and whether the applicant has permission to establish a new driveway onto this private portion of Victory Drive. This issue is beyond the scope of this Land Filling and Regrading Application. If it is found that the applicant cannot install the driveway as specifically requested in this application, a subsequent application and review before this Commission may be necessary.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #134 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the plans submitted to the Commission entitled:
 - Able Construction, 10 Victory Drive, Site Development Plan, by Land-Tech Consultants, Inc., scale 1"=10', dated 10/10/04.
- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- C. The Commission hereby requires that if the drainage improvements installed do not function properly, that the property owner will make any necessary changes or adjustments.
- D. Prior to receiving a Certificate of Zoning Compliance, the applicant shall submit a letter from a Professional Engineer certifying that the required drainage has been properly installed.
- E. Sediment and erosion controls (silt fence and anti-tracking pad) shown on the approved Site Development Plan shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes obtaining written permission from the owner of the private road where the driveway is located to install the new driveway, or, if the road is public, obtaining a street opening permit (curb cut approval) from the Darien Public Works Department.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (January 3, 2006). This may be extended as per Sections 858 and 1009.

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All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti read the next agenda item:

Discussion and deliberations only on the following item (hearing closed on November 9):

Special Permit Application #66-J, Darien YMCA, 2420 Boston Post Road. Proposing to replace existing racquetball and squash courts with group exercise rooms; replace and upgrade mezzanine in Wellness Center; enlarge and upgrade parking lot; amend operating hours; and perform related site development activities. Subject property is located on the south side of Boston Post Road, approximately 520 feet east of its intersection with Weeds Landing, and is shown on Tax Assessor's Map #53 as Lot #60, R-1/2 Zone.

Discussion continued from the previous meetings regarding YMCA's request for increased parking spaces (fifty); expanded hours of operation; and interior renovations to the existing structure to meet changing needs of the YMCA membership.

The Special Permit Application concerns the impact on the immediate neighborhood around the YMCA, the negotiated parking situation in the past (the Stipulated Judgment), and a concern for special event nights, where it was mentioned that the YMCA still had open parking spaces. A discussion began regarding the YMCA land parcel being developed as much as it can be and that there is no need to increase parking. Mr. Damanti believed that the applicant did not meet the burden of proof of parking need.

Mr. Bigelow believed that there was no need for fifty additional spaces and that the YMCA could probably do with less. His main concern was the traffic problems when I-95 is backed up, spilling traffic onto Boston Post Road, causing safety concerns. He also believed that vehicles should not be parked on Boston Post Road if it can be avoided by adding additional spaces at the YMCA. He said that the biggest issue is safety, and that some amount of parking is warranted. He noted that more parking is needed, but 50 spaces may not be the correct number.

Mrs. Forman brought up the point that putting in more parking spaces may not alleviate the Boston Post Road traffic problem. Her concern was about limitations placed on the YMCA in the past, and that the YMCA has reached its maximum and should move programs offsite to another location. She also stated that the YMCA should address mothers getting out of cars with infants and toddlers when bring children to nursery school.

Mr. Conze stated that the Commission should not allow parking on Boston Post Road if at all possible. He also believed that the Commission must not put safety of the public over maintaining larger setbacks for neighbors and that they would be remiss if they did this. He said that he has no concerns with the request for additional hours and interior additions and alterations.

Mr. Kenny stated that the traffic on Boston Post Road is horrendous and the Commission should provide a balance on the east side of the property – maybe twenty to forty additional spaces, which

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would be a better balance for surrounding neighbors. He had no problem with the expansion of parking spaces. He mentioned that there must be better parking management by the YMCA if this increase is granted, especially with regarding to drop-offs of nursery school children. He also believed that increasing parking spaces on the east side of the YMCA property will put a temporary "band aid" on this situation and that the parking must be monitored carefully as to how it impacts the neighbors.

Mr. Spain stated that it should be the decision of this Commission to amend this Special Permit and that there is room to expand parking on the YMCA property. The main issue with parking is safety, as parking frequently overflows onto Boston Post Road. He cited the problems with crossing Boston Post Road in the wintertime on snowy days. He also believed that any noise, lighting, or slamming doors can be remedied. Parking should be allowed as presented, even without an increase in programs. However, he believed that the YMCA should be responsible for monitoring, recording, and managing parking, perhaps by professionals over a period of time. If these increased activities cause parking problems, the YMCA will have to cut back on activities.

Mr. Conze noted that there are different circumstances existing today, than in 1995, when the Stipulated Judgment was agreed upon. Mr. Bigelow added that some YMCA programs have been moved off-site since 1995. Mr. Spain said that the YMCA would not propose more parking than they thought that they needed. He believes that Section 1005 has been satisfied. He suggested specific conditions on the parking lot, including the active monitoring by a professional traffic engineer. Mr. Kenny mentioned that at certain times, a traffic patrol officer is now hired by the YMCA. He said that the additional parking will substantially decrease the frequency of parking on Boston Post Road.

Mr. Damanti brought up the question of how would you enforce parking rules and not having people parking out on Boston Post Road.

Mr. Damanti asked each member to note their views on the *proposed increase in parking*:

Bigelow	FOR (safety is main issue, and a lower number of spaces may be adequate)
Forman	AGAINST (she believed that the parking will not resolve the safety issue)
Conze	FOR
Kenny	FOR (with management and controls, such as fencing and landscaping)
Damanti	AGAINST (does not meet Section 1005)
Spain	FOR

There was obviously a split decision among Commission members.

Mr. Damanti asked each member to note their views on the *interior additions/alterations of the YMCA facility*:

Mr. Damanti said that he would approve the interior changes. Mr. Spain believed that the programs have to be adjusted to fit the parking, namely no overflow, and that the YMCA has to enforce parking by ticketing violators and that a Resolution should be drawn up for this. A decision must be made on this by January 13 and we should have discussions with YMCA personnel, Police, and the Department of Transportation on any and all traffic concerns.

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It was generally agreed that the YMCA should go ahead with the interior changes, but with recognition of safety, and also lighting concerns for the neighbors.

Regarding the proposed changes to the existing *hours of operation* at the YMCA facility: Commission members were unanimous in their belief that the hours of operation should not be changed.

Mr. Damanti noted that further discussion is needed on the application, and that staff should draft a resolution for consideration by the Commission at next Tuesday's meeting.

Amendment of Special Permit #66-I, Darien YMCA, 2420 Boston Post Road.

Review and action on Special Events Schedule for year 2005.

Commission members reviewed the Special Events schedule submitted by Patrick Morrissey. There being no comments or concerns, that schedule was unanimously approved by the Commission.

Discussion with Thomas Golden regarding various Heights Road properties.

Mr. Golden discussed his plans for revitalization of the Heights Road properties he currently owns. He mentioned that he thought Equinox was being managed very well as far as parking was concerned, and that Stop & Shop has 365 parking spaces in their parking lot and there had never been a problem with parking. Mr. Golden also mentioned that Stop & Shop has had the same business plan for the past thirty years and has been in its current location since 1967. He believed that Stop & Shop may not have plans to suit the community at this time and that he needs to have the right tenant mix. The Planning and Zoning Commission was very receptive to the revitalization of this area of Noroton Heights.

Amendment of Special Permit #15-J, Wee Burn Country Club

Request to revise refueling area plan

The Commission reviewed the December 20, 2004 letter from Ralph LaRock of the Princetown Companies. Mr. Keating believed that this was a better design for the previously approved refueling area plan for Wee Burn Country Club. Mr. Kenny noted that it would be best to include oil separator drains under the entire refueling area so that any leaks are trapped in the special drainage system rather than spreading into or on the ground. With that condition, the Commission then unanimously approved the amendment to the refueling area. The revised plans the Commission approved are entitled "Wee Burn Maintenance Darien, Connecticut" by the Princeton Companies and are shown as Sheets SK-2 and SK-1.

Coastal Site Plan Review #85-A, Flood Damage Prevention Application #72-A, Jerry & Susan Elliott, 97 Five Mile River Road.

Request for extension of time to implement project.

The letter from Attorney Wilder Gleason on behalf of the Elliotts was reviewed. The Commission unanimously approved the requested extension.

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Amendment of Special Permit Application #47-C, Darien Community Association, 274 Middlesex Road.

Request to allow weekly meetings of the Darien Rotary Club and the Blue Notes at the DCA, and to cut two trees on the property, adjacent to the existing building.

There was a motion to approve this request made by Mr. Bigelow, and seconded by Mr. Conze. That motion was unanimously approved by a vote of 6-0.

Approval of Minutes

October 26, 2004 Public Hearing

There was a motion to approve the October 26, 2004 meeting minutes with one change. That motion was made by Mr. Konze, seconded by Mr. Bigelow, with one abstention by Mrs. Forman.

November 23, 2004 Public Hearing/General Meeting

Mr. Conze made a motion to approve the November 23, 2004 meeting minutes as written. That motion was seconded by Mr. Bigelow, and unanimously approved.

Mr. Damanti read the next agenda item:

2005 Town Plan of Conservation & Development

Discussion regarding:

- Revised draft of Vision (Chapter 1)
- Revised draft of the Demographics Chapter (Chapter 2) and Appendix.
- Revised draft of the Public Facilities & Services Chapter (Chapter 8) and Appendix.
- Timeline for completion.
- Whether Commission wants Fiscal Conditions included in the Plan.
- Issues related to high school photography class taking photos for Plan.

Mr. Damanti explained that comments have been requested for the Town Plan by February, and a request was sent out to a large group of local boards and commissions in November 2004. Mr. Damanti noted that due to the late hour, the discussion on the Town Plan will be held next week—January 11th.

The meeting was adjourned at 10:10 PM.

Respectfully Submitted,

Jeremy B. Ginsberg
Planning & Zoning Director